

The Magistrate Judge issued the R & R in accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02(B)(2)(e) (D.S.C.). The Court is mindful of its duty to liberally construe Plaintiff's pro se filings. *See Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (recognizing "[a] document filed *pro se* is to be liberally construed" (internal quotation marks omitted)). *But see United States v. Wilson*, 699 F.3d 789, 797 (4th Cir. 2012) ("Although courts must liberally construe the claims of *pro se* litigants, the special judicial solicitude with which a district court should view pro se filings does not transform the court into an advocate." (internal citations, quotation marks, ellipsis, and brackets omitted)).

a party makes only “general and conclusory objections that do not direct the [C]ourt to a specific error in the [M]agistrate [Judge]’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of specific objections to the R & R, the Court reviews only for clear error, *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005), and the Court need not give any explanation for adopting the Magistrate Judge’s recommendation. *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983).

### **Discussion**

Plaintiff Jess Yates has filed a complaint against the Town of Wallace, North Carolina (“Defendant”) alleging various “infringement[s] of federal constitutional guarantees.” ECF No. 1 at p. 1. The Magistrate Judge recommends transferring this case to the United States District Court for the Eastern District of North Carolina because the District of South Carolina is the wrong venue. *See* ECF No. 3 at pp. 2–4 (discussing 28 U.S.C. § 1391(b) and § 1406(a)).

In his objections, Plaintiff asserts that he “is a resident of Myrtle [B]each, SC and has every right to request hearing and judicial access in SC” and that Defendant “has failed to copy [him] on any request to transfer.” ECF No. 5 at p. 1. However, as explained in the R & R, 28 U.S.C. § 1391(b) generally governs the venue of civil actions, and a plaintiff’s residence is not among the three categories listed in § 1391(b). *See Madison v. Dyal*, 746 F. Supp. 2d 450, 452 (W.D.N.Y. 2010) (recognizing “a plaintiff’s residence is irrelevant in determining venue under” § 1391(b)); *see, e.g., Iannello v. Busch Entm’t Corp.*, 300 F. Supp. 2d 400, 403 (E.D. Va. 2004) (finding “venue in the District of New Jersey could not have been properly maintained on the basis of [the] plaintiffs’ residence”).

Moreover, Plaintiff is correct that Defendant has not requested a transfer;<sup>2</sup> instead, the Court is

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<sup>2</sup> Defendant has not appeared or been served in this action.

*sua sponte*<sup>3</sup> transferring this case to the proper judicial district, which is the Eastern District of North Carolina. *See Feller v. Brock*, 802 F.2d 722, 729 n.7 (4th Cir. 1986) (recognizing “the district court may consider the possibility of transfer sua sponte”); *Waytes v. City of Charlottesville*, 1998 WL 468776, at \*1 (4th Cir. 1998) (“The district court, confronted with a case laying venue in the wrong district, is statutorily obligated to dismiss the case unless transferring the case to a district where the action could have been brought is in the interest of justice. *See* 28 U.S.C. § 1406(a)[.]”). Accordingly, the Court will overrule Plaintiff’s objections and transfer this case pursuant to 28 U.S.C. § 1406(a).

### **Conclusion**

For the foregoing reasons, the Court **OVERRULES** Plaintiff’s objections, **ADOPTS** the Magistrate Judge’s R & R [ECF No. 3], and **TRANSFERS** this case to the United States District Court for the Eastern District of North Carolina.

**IT IS SO ORDERED.**

Florence, South Carolina  
January 21, 2021

s/ R. Bryan Harwell  
R. Bryan Harwell  
Chief United States District Judge

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<sup>3</sup> “*Sua sponte*” means a court is acting “on its own motion.” *Sua sponte*, Black’s Law Dictionary (11th ed. 2019).